

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HOTHMAN MISANE, TYLER
SLEEP and JEROL WILLIAMS,

Plaintiffs,

v.

CITY OF BANGOR, TOMMY SIMPSON,
MAYOR DARREN WILLIAMS and SCOTT GRAHAM,

Defendants.

Case No 21-487
Judge Hala Y. Jarbou
Magistrate Judge Ray Kent

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**DEFENDANTS CITY OF BANGOR, MAYOR DARREN WILLIAMS, AND
SCOTT GRAHAM'S MOTION TO ADJOURN TRIAL**

NOW COME, Defendants, CITY OF BANGOR, MAYOR DARREN WILLIAMS, and
SCOTT GRAHAM, by and through their attorneys, GARAN LUCOW MILLER, P.C., and
for their Motion to Adjourn Trial, state as follows:

1. This matter arises from alleged instances that occurred in the workplace while Plaintiffs were employed with the Bangor Police Department.
2. Defendants were recently advised on October 26, 2022 that this matter has been assigned an April 24, 2023 trial date. (See **Exhibit 1** – First Amended Case Management Order).
3. Defense counsel currently has an April 17, 2023 trial date in the matter of Rhonda Vogel, et al. v Home Depot USA, Inc., et al., Wayne County Circuit Court, Case No. 21-002319-NZ, assigned to the Honorable Leslie Kim Smith. (See **Exhibit 2** – *Vogel/ Register of Actions*).
4. Defendants hereby notify this Court of a potential conflict given the likely possibility that the April 17, 2023 trial will extend beyond one week.
5. Local Rule 40.2 states that, “A motion for a continuance of a trial or other proceeding shall be made only for good cause and as soon as the need arises.”
6. Fed. R. Civ. P. 16(b)(4) further provides that a trial date may be adjourned “for good cause and with the judge’s consent.”
7. An “important consideration for a district court deciding whether Rule 16’s good cause standard is met is whether the opposing party will suffer prejudice [as a result of the adjournment].” *Leary v. Daeschner*, 349 F.3d 888, 906 (6th Cir.2003) (internal quotation marks omitted).
8. Here, the two trials are separated by just seven days and defense counsel will be unable to physically appear at contemporaneous trials if required to do so.
9. Further, even if the earlier trial does not extend beyond one week, it is an avoidable burden on defense counsel to prepare for multiple trials.

10. This is Defendants' first request for an adjournment of trial and the same has been made promptly and in good faith.

11. Counsel for Co-Defendant has concurred in the relief requested. Counsel for Plaintiffs has not.

WHEREFORE, Defendants, CITY OF BANGOR, MAYOR DARREN WILLIAMS, and SCOTT GRAHAM, respectfully request the entry of an order adjourning the trial date currently scheduled for April 24, 2023, to a date thereafter to be scheduled by the court.

Respectfully submitted:

/s/John J. Gillooly
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Dated: October 31, 2022

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BRIEF IN SUPPORT OF DEFENDANTS
CITY OF BANGOR, MAYOR DARREN WILLIAMS, AND
SCOTT GRAHAM'S MOTION TO ADJOURN TRIAL

Defendants respectfully rely on Local Rule 40.2, Fed. R. Civ. P. 16(b)(4), and the facts set forth in the foregoing motion in support of their Motion to Adjourn Trial.

WHEREFORE, Defendants, CITY OF BANGOR, MAYOR DARREN WILLIAMS, and SCOTT GRAHAM, respectfully request the entry of an order adjourning the trial date currently scheduled for April 24, 2023, to a date thereafter to be scheduled by the court.

Respectfully submitted:

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Dated: October 31, 2022

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2022, my assistant, Alisa Schaaf, electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

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and I hereby certify that on November 1, 2022, my assistant, Alisa Schaaf, mailed by United States Postal Service the foregoing document to the following non-ECF participants, with full legal postage prepaid thereon and deposited in the United States mail: **NA**

/s/John J. Gillooly

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